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In re Application of  
KOBAYASHI et al.  
Application No.: 09/700,993  
PCT No.: PCT/JP99/02644  
Int. Filing Date: 20 May 1999  
Priority Date: 22 May 1998  
For: ENDO-B-N-ACETYLGLUCOSAMINIDASE GENE :

DECISION ON

PETITION UNDER

37 CFR 1.42

This is a decision on Applicant's petition under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 04 February 2002 in response to the 05 December 2001 decision.

**BACKGROUND**

On 22 May 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath/declaration and a surcharge for filing after the 30 month period was required. The notification set a two-month time period in which to respond.

On 20 July 2001, applicants filed a Declaration and Power of Attorney signed by Yoriko Takeuchi, spouse and legal representative of second inventor, Makoto Takeuchi. There was no indication that Mr. Takeuchi was either deceased, insane or legally incapacitated.

On 05 December 2001, a decision on the submission was mailed to applicants, indicating that the declaration submitted on 20 July 2001 identified each inventor and country of citizenship of each inventor and stated the relationship of Yoriko Takeuchi as legal representative of inventor Makoto Takeuchi. The declaration also stated the citizenship, residency and mailing address of the legal representative. However, applicants did not explain whether the declaration was being filed under 37 CFR 1.42 [When the inventor is dead] or 1.43 [when the inventor is insane or legally incapacitated].

On 04 February 2002, the petition under 37 CFR 1.42 was filed, indicating that inventor Takeuchi is deceased.

With the submission of the petition under 37 CFR 1.42, the declaration submitted on 20 July 2001 meets the requirements of 37 CFR 1.497. The declaration is acceptable. Accordingly, it is appropriate to accord the application status under 37 CFR 1.42.

**CONCLUSION**

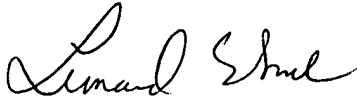
For the above reasons, the declaration filed on 20 July 2001 is acceptable and the request

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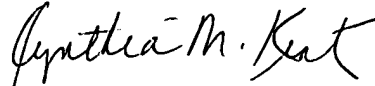
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for acceptance of the declaration as a proper response to the Notification of Missing Requirements is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c) date is **20 July 2001**.



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